

Letter to the Right Honourable Sir Robert Peel, bart. on the responsibility of monomaniacs for the crime of murder / by James Stark.

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With the Author's Letter
LETTER

TO

THE RIGHT HONOURABLE

SIR ROBERT PEEL, BART.

ON THE

RESPONSIBILITY OF MONOMANIACS

FOR THE

CRIME OF MURDER.

BY

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LETTER, &c.

Unto The Right Hon.

SIR ROBERT PEEL, Bart.

SIR,

THE evidence of the existence of insanity in any individual, and especially that amount of it which should exempt from responsibility, and of course from the punishment due to crime, is still unsatisfactory, loose, and vacillating. The consequence of this has been that every criminal who has of late pleaded insanity has been acquitted; and judges and juries have been completely misled *not* by the *facts* brought out in evidence as to the state of mind of the prisoner, as evidenced by his acts, but by *opinions* which they who delivered them have themselves confounded, and caused judge and jury to confound with and mistake for facts. In almost every case the whole stress has been laid on the medical evidence. It is this which has acquitted the prisoner, when the public voice would have condemned; and, strange to say, no attempt seems ever to have been made by judge or jury to examine such evidence by the same principles of common sense which they apply to all other kind of evidence. They appear to have looked on it as something to which the minds of common men could not attain—as something too sacred to be contradicted—too deep to be understood by any but those who had paid especial attention to medicine,—and was not to be judged by the ordinary rules of reason.

The murders, or attempts to murder, which we have lately witnessed in this country, by persons claiming exemption from the punishment which the law inflicts on the plea of insanity,—attempts first directed against our beloved Queen, and then against your own person, call loudly on every one who has paid any attention to the subject to express his sentiments thereon, and thus lend his feeble aid to the suppression of practices from which every well-regulated mind must shrink with abhorrence.

Entertaining sentiments somewhat adverse to those lately expressed by some of the most eminent professional men,—sentiments also considerably different from those entertained by the later writers on the subject of insanity,—I have presumed to submit them for the consideration of the public that all may have it in their power to examine the facts for themselves, and decide according to the plain dictates of reason.

The present letter shall be strictly confined to the question of the responsibility of monomaniacs for the crime of murder, *as it is that class of insane alone who come under the notice of criminal courts*; and I know not to whom I could better address myself than to you whose attention has been but too strongly called to the question by the lamented murder of your friend and Secretary—the late Mr Drummond.

✱ No apology, Sir, I hope, is required for calling your attention at this late day again to the subject of the “plea of insanity in criminal cases.” I regret that numerous pressing engagements so occupied me that I was prevented from finishing this letter whilst the public mind was still in a state of excitement on the subject. Now, however, that that excitement is past, we shall perhaps be able to review more calmly and dispassionately the arguments on both sides, and arrive at a more just conclusion.

Murder has by all nations, and in all ages, been reputed the foulest of crimes, and has invariably been punished with the death of the murderer. On this point civilized and savage nations alike agree,—indeed, we have the *positive command* of the Author of Life to all the human race to shed the blood of him who commits murder (Genesis ix. 6.) In that law which He gave to his chosen people we find it not only expressly declared again and again that the murderer shall be put to death. (Exodus xxi. 12 and 14; Leviticus xxiv. 17; Numbers xxxv. 16, 17, 18, 20, 21, and 30; Deuteronomy xix. 11 and 12,) but also, that no satisfaction shall be taken for the life of a murderer, but that he shall surely be put to death, (Numbers xxxv. 31,); that the eye shall not pity him (Deuteronomy xix. 13); and that the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it (Numbers xxxv. 33.) All nations, therefore, Pagan as well as Christian, savage as well as civilized, are allowed no latitude in the interpretation of these commands, but are bound to deprive the murderer of life.

Who, then, had the right to deprive the murderer of life? Blackstone in his “Commentaries on the Laws of England” has very sensibly defined this question: “It is clear (says he) that the right of punishing crimes against the laws of nature, as murder and the like, is in a state of nature vested in every individual. For it must be vested in somebody; otherwise the laws of nature would be vain and fruitless if none were employed to put them in execution: and if that power be vested in any *one* it must also be vested in *all* mankind; since all are by nature equal. Whereof the first murderer, Cain, was so sensible that we find him expressing his apprehension that *who*

ever should find him would slay him. In a state of society this right is transferred from individuals to the Sovereign power; whereby men are prevented from being judges in their own causes, which is one of the evils which civil government was intended to remedy. Whatever power, therefore, individuals had of punishing offenders against the law of nature, that is now vested in the magistrate alone; who bears the sword of justice by the consent of the whole community." (Vol. iv. p. 7 and 8.)

Nations, even in an advanced state of civilization, have, however, permitted every man to revenge the death of his relation by shedding the blood of the murderer. On this point the Jewish law was very express; nor do we find that it was altered or modified even under their regal government. "The revenger of blood himself shall slay the murderer; when he meeteth him he shall slay him." (Numbers xxxv. 19, 21, and 26; Deuteronomy xix. 6 and 12.)

Now it is a very remarkable circumstance that, in all that most minute and comprehensive code of laws relative to murder which the Jews received from the Great Lawgiver, there is not the slightest allusion made to any exemption from the punishment of death for murder committed by an insane person. Cities of refuge were appointed for the manslayer to flee to who killed any one *accidentally*, but sane and insane were judged by the same laws—laws which possessed an authority to which no human law can pretend. No one who knows anything of the constitution of human nature can pretend that insanity would be much less prevalent in the time of the Jews than it is at the present day; and there cannot be a doubt that, had the Divine Lawgiver seen fit to exempt that class of individuals from the responsibility attached to the commission of crimes against the law of nature, that exemption would have been included among those relating to murder. No such exemptions, however, were made; and as the nearest relative revenged the death of his relation, we are forced to conclude that the blood of sane and insane murderers would alike be shed.

Come we now to the boasted superior civilization of modern times, and see what the wisdom of ages has taught us. Let us see whether our laws bear the impress of that supposed progressive improvement in civilization. At once it may be answered they do not. For the most trivial of offences, till very lately, the life of the culprit was taken; and murder, that only crime for which the loss of life ought to be sustained, is viewed with such a lenient eye, that if it can be proved that the criminal has been guilty of any eccentric act or foolish deed, at which a more sober mind would rebel, sympathy—false sympathy for "the unhappy individual,"—finds a place in the breasts of judge and jury, and, instead of suffering that punishment which can alone atone for the shedding of blood,—*he is acquitted*. This sympathy is mistaken by these men for Christian philanthropy; and the more atrocious the murder, and the more valuable the member of society who has been murdered, the stronger is this false sympathy shown towards the murderer.

This has been but too visibly exhibited at all the late trials for murder, or attempts at murder. Why was Courvoisier executed, and Oxford acquitted? Courvoisier, in all his acts, showed a ten times greater amount of insanity than did Oxford,—but the one cut the throat of a private gentleman, and was therefore hanged;—the other, committed the more aggravated offence in the eyes of the law, viz. shot at the Queen, and was therefore acquitted! Why was Greenacre executed, and M'Naughten acquitted? The acts of Greenacre showed him also to be labouring under a greater amount of insanity than M'Naughten,—but Greenacre murdered, in cold blood, an unknown girl, and was therefore hanged;—while M'Naughten only murdered a person in an official situation, in mistake for the Prime Minister of England, and was therefore acquitted!

It is the same with every other trial for murder which has come under the notice of the public for some years past. When the person or persons murdered are in the common rank of life, judge and jury invariably find the pannel guilty, and without one single remorse of conscience, sentence him to be executed; but, if the person murdered, or attempted to be murdered, be in a high official station, judge and jury find him to be labouring under some form of insanity—and acquit him. And why is this? Is the murderer of the high official not to be judged by the same laws as the murderer of the lowly peasant? Does the very fact of a man attempting to murder his Sovereign or her Prime Minister, of itself prove him insane? Do the same motives not actuate the murderer in cold blood of the private gentleman, or unoffending woman, which tempt to raise the hand against our Sovereign or her high officials? Do our laws declare that every traitor must be insane? Do they declare that the murderer of the high official must be mad, but that the murderer of the private gentleman, or of a harmless woman, never can be so? Do we not see that every traitor, and every murderer of the high officials pleads insanity, and on almost any kind of evidence as to this, is acquitted? Whereas do we not see that the murderer of any other person never sets up this plea, or, if he does, his plea is at once rejected with scorn?

It is not human nature to believe that every man who raises his hand against his Sovereign or her officials must be insane, whilst every man who murders any other individual must be sane; and yet this is the only conclusion which the results of the trials for murder in this country, for some years past, infallibly lead to.

These are facts which loudly call for a severe, a searching examination. Fault must exist somewhere. But, as the object of this letter is to show how far all monomaniacs who commit murder are amenable to the laws, and how far the plea of insanity is applicable to them, it shall first be shown what the laws relative to the insane are, and then, whether the homicidal monomaniac is included under them.

The English Law states that idiots and lunatics are incapable of committing any crime,—are not responsible for their acts. Blackstone, in his able "*Commentaries on the Laws of England*," has fully stated this subject, and we cannot do better than quote his words.

" All the several pleas and excuses which protect the committer of a forbidden act from the punishment which is otherwise annexed thereto, may be reduced to this simple consideration, the want or defect of *will*. An involuntary act, as it has no claim to merit, so neither can it induce any guilt; the concurrence of the will, when it has its choice either to do or to avoid, the fact in question being the only thing that renders human actions either praiseworthy or culpable. Indeed, to make a complete crime cognizable by human laws, there must be both a will and an act. For though, *in foro conscientiae*, a fixed design or will to do an unlawful act is almost as heinous as the commission of it, yet, as no temporal tribunal can search the heart, or fathom the intention of the mind, otherwise than as they are demonstrated by outward actions, it therefore cannot punish for what it cannot know. For which reason, in all temporal jurisdictions an *overt* act, or some open evidence of an intended crime is necessary in order to demonstrate the depravity of the will, before the man is liable to punishment. And as a vicious will without a vicious act is no evil crime, so, on the other hand, an unwarrantable act without a vicious will is no crime at all. So that, to constitute a crime against human laws, there must be first a vicious will; and secondly, an unlawful act consequent upon such vicious will.

" Now, there are three cases in which the will does not join with the act:—1. Where there is a defect of understanding. For where there is no discernment, there is no choice; and where there is no choice, there can be no act of the will; which is nothing else but a determining of one's choice to do or to abstain from a particular action: he therefore that has no understanding can have no will to guide his conduct. 2. Where there is understanding and will sufficient residing in the party, but not called forth and extended at the time of the action done; which is the case of all offences committed by chance or ignorance. Hence the will is neuter, and neither concurs with the act nor disagrees to it. 3. Where the action is constrained by some outward force and violence. Here the will counteracts the deed, and is so far from concurring with it, that it loathes and disagrees to what the man is obliged to perform." (Vol. iv. pp. 20, 21.)

A little further on we learn that under these heads it is "infancy, idiocy, lunacy, and intoxication, which fall under the first class; misfortune and ignorance, which may be referred to the second; and compulsion or necessity, which may properly rank in the third," (p. 22.) If these explanations of exemptions do not include every variety of criminal, and exempt him from the punishment due to his crimes, I do not profess to understand the meaning of language.

Carrying out these principles, Blackstone applies them to the question before us, viz. to the responsibility of lunatics. "In criminal cases, therefore, idiots and lunatics are not chargeable for their own acts, if committed when under these incapacities: no not even for treason itself. Also, if a man in his sound mind commits a capital offence, and before arraignment of it becomes mad, he ought not to be arraign-

ed for it ; because he is not able to plead to it with that advice and caution that he ought. And if after he has pleaded the prisoner becomes mad, he shall not be tried ; for, how can he make his defence ? If after he be tried and found guilty, he loses his senses, before judgment, judgment shall not be pronounced ; for, peradventure, says the humanity of the English law, had the prisoner been of sound memory, he might have alleged something in stay of judgment or execution." And again, " A total idiocy or absolute insanity excuses from the guilt, and of course from the punishment, of any criminal action committed under such deprivation of the senses : but if a lunatic hath lucid intervals of understanding, he shall answer for what he doth in these intervals, as if he had no deficiency. Yet, in the case of absolute madmen, as they are not answerable for their actions, they should not be permitted the liberty of acting unless under proper control ; and, in particular, they ought not to be suffered to go loose to the terror of the King's subjects." (Vol. iv. Pp. 24, 25.)

Such, then, being the tenor of the British laws, and as every law ought to be obeyed, both to the letter and spirit, so far as practicable, let us endeavour to ascertain the understanding of lawyers on the subject. As they are appointed by the wisdom of the Legislature for the interpretation of the laws, and for the overseeing their application to practice, we shall quote their definitions of madness as regards the non-responsibility of the insane for the crime of murder, and then endeavour to apply that law, as by them interpreted, to the case of persons pleading insanity to save them from the punishment due for murder.

As Lord Hale's views on the jurisprudence of insanity, more than any other, have tended to regulate the decisions up to the present day, they may be quoted first.

" There is a partial insanity, (says he) and a total insanity. The former is either in respect to things, *quoad hoc vel illud insanire*. Some persons that have a competent use of reason in respect of some subjects are yet under a particular *dementia* in respect of some particular discourses, subjects, or applications ; or else it is partial in respect of degrees ; and this is the case of very many, especially melancholy persons, who, for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason ; and this partial insanity seems not to excuse them in the committing of any offence for its matter capital ; for doubtless, most persons that are felons of themselves and others, are under a degree of partial insanity when they commit these offences. It is very difficult to define the indivisible line which divides perfect and partial insanity ; but it must rest upon circumstances duly to be weighed and considered, both by the judge and jury, lest on the one side there be a kind of inhumanity towards the defects of human nature ;—or, on the other side, too great an indulgence given to great crimes." (Pleas of Crown, p. 30.)

At the trial of Lord Ferrers for the murder of his steward, in which the plea of insanity was made, the then Solicitor-General, (af-

terwards Lord Chancellor,) after quoting Lord Hale's opinion, continued, "My Lords, the result of the whole reasonings of this wise judge and great lawyer (so far as it is immediately relative to the present purpose) stands thus: If there be a total permanent want of reason it will acquit the prisoner; if there be a total temporary want of it when the offence was committed, it will acquit the prisoner; but if there be only a partial degree of insanity, mixed with a partial degree of reason—not a full and complete use of reason, but (as Lord Hale carefully and emphatically expresses himself) a competent use of it sufficient to have restrained the passions which produced crime—if there be thought and design, a faculty to distinguish the nature of actions, to discern the difference between good and evil; then, upon the facts of the offence proved, the judgment of the law must take place. My Lords, the question, therefore, must be asked, is the noble prisoner at the bar to be acquitted from the guilt of murder on account of insanity? It is not pretended to be a constant, general insanity. Was he under the power of it at the time of the offence committed? Could he, did he, at the time, distinguish between good and evil?"

Baron Hume in his "Commentaries on the Criminal Law of Scotland," gives a statement much to the same effect: "Idiocy or madness (says he) if it is not pretended, and is withal of the due degree, and is fully proved, brings the act to be the same as that of an infant, and has equally the privilege in all cases of an entire exemption from any manner of pain. '*Cum alterum innocentia concilia tuetur, alterum fati infelicitas excusat.*' I say, where it is fully proved, and is of the due degree; for if reason and humanity enforce the plea in these circumstances, it is no less necessary to observe such a caution and temperament in the application of it, as shall hinder it to be understood that there is any privilege of mere weakness of intellect, or of a strange and moody humour, or of a crazy and capricious, or irregular temper and habit. None of these things either are or ought to be law." "To serve the purpose, therefore, of an excuse in law, the disorder must amount to an absolute alienation of reason, '*ut continua mentis alienatione omni intellectu careat,*' such a disease which deprives the patient of the knowledge of the true position of things about him, and of the discernment of friend from foe, and gives him up to the impulse of his own distempered fancy, divested of all self-government or control of his passions," (Vol. i. p. 23.) "Whether it should be added to this description, that he must have lost all knowledge of good and evil, right and wrong, this is a more delicate question, and fit, perhaps, to be resolved differently, according to the sense in which it is understood." "Our practice has always been governed by the general precept already mentioned, *which admits of no defence short of absolute alienation of reason.*"

In reference to the pannel's state of mind at the time of committing the murder Baron Hume states, "For if there be a proof applicable to that period, and if it either establish no symptom of disorder or but very slight ones, it will not defend the pannel that he had formerly (as was the case of Lord Ferrers) and for a length of

time been insane. Now, as to the situations of a doubtful character, I can imagine but one in which it may be reasonable to presume for the influence of disease upon the act. I mean the situation of a person, who, ordinarily and for a course of years, has been insane, with but few and short, and very imperfect intervals of reason; and more especially this will be just, if he is found with the plain symptoms of furiosity about him shortly after doing the deed. One, for instance, who has been confined in a madhouse, if, taking advantage of the occasional liberty which is indulged him, on the faith of any seeming intermission in his fury, he shall make his escape from his friends to whose society he has been restored, and shall kill a person when no one is by to give testimony to what passes; and shall afterwards, in the course of the same day, be taken in a state of absolute distraction, he may seem to be within the privilege of this humane construction. In the case, on the contrary, of one whose lucid intervals have been longer and more frequent, the presumption upon a doubtful and defective proof shall be against him, though by reason of the faulty habit, and the natural suspicion of the lurking vice, where it has once shown itself, weaker evidence may here be admitted to cast the balance, than on the trial of one who has never been subject to this affliction. The situation is still more unfavourable to the panel if his ordinary condition be that of a sound man, or if his lucid intervals have generally been at stated periods, and of nearly the same endurance, and the deed is done within the regular period of such an interval," (Vol. i. p. 35.)

Lord Erskine, in his celebrated speech in defence of Hadfield, who shot at King George III., entered very fully into the subject of the legal responsibility of the insane; and though his partial pleading in defence of his client is not to be cited as authority in law, the general remarks with which he opened his case entirely agree with that of the authorities just quoted. "I am bound to admit," says he, "that there is a wide difference between civil and criminal cases. If, in the former, a man appears upon the evidence to be *non compos mentis*, the law avoids his acts, though they cannot be traced or connected with the morbid imagination which constitutes his disease, and which may be extremely partial in its influence upon the conduct; but, to deliver a man from responsibility for crimes, above all, for crimes of great atrocity and wickedness, I am by no means prepared to apply this rule, however well established, where property only is concerned." (Speeches Miscellaneous, pp. 11, 12.)

In further promulgating and explaining these views, he distinctly stated, that, unless the form of insanity could be distinctly traced to be connected with the crime of murder, it was no excuse that a form of insanity existed: it did not prevent the partial lunatic from being a responsible being, and amenable for his acts.

The Attorney-General, at the same trial, laid it down as the ascertained law of the land, that, "to protect a man from criminal responsibility, there must be a total deprivation of memory and understanding."

Mr Justice Tracey, at the trial of Arnold for shooting Lord Onslow, where the plea of insanity was likewise endeavoured to be proved, remarked, "it is not every kind of partial humour and something unaccountable in a man's action that points him out to be such a madman as is exempted from punishment; it must be a man that is totally deprived of his understanding and memory, and does not know what he is doing, no more than an infant, than a brute, or a wild beast,—such a one is never the object of punishment." (Hargrave's State Trials, p. 322.)

Sir Simon Le Blanc, before whom Bowler was tried for shooting at Barrows, and where insanity was attempted to be proved, in his address to the jury, observed, that "it was for them to determine whether the prisoner when he committed the offence for which he stood charged, was or was not incapable of distinguishing right from wrong, or under the influence of any illusion in respect of the prosecutor, which rendered his mind at the moment insensible of the nature of the act he was about to commit, since in that case he would not be legally responsible for his conduct. On the other hand, provided they should be of opinion that when he committed the offence he was capable of distinguishing right from wrong, and not under the influence of such an illusion as disabled him from discerning that he was doing a wrong act, he would be amenable to the justice of his country and guilty in the eye of the law."

At the trial of Bellingham for the murder of Mr Percival, where insanity was also pleaded, Sir Vicary Gibbs, then Attorney-General of England, expressed thus strongly the law relative to the insane: "A man may be deranged in his mind,—his intellects may be insufficient for enabling him to conduct the common affairs of life, such as disposing of his property, or judging of the claims which his respective relations have upon him; and if he be so, the administration of his country will take his affairs into their management, and appoint him trustees; but, at the same time, such a man is not discharged from his responsibility for criminal acts." And again, "Although a man may be incapable of conducting his own affairs, he may still be answerable for his criminal acts, if he possess a mind capable of distinguishing right from wrong." (Collinson on Lunacy, p. 657.)

On the same trial Lord Chief-Justice Mansfield, who presided, thus expressed himself in his charge to the jury: "If a man were deprived of all power of reasoning, so as not to be able to distinguish whether it was right or wrong to commit the most wicked transaction, he could not do an act against the law. Such a man so destitute of all power of judgment could have no intention at all. In order to support the defence, however, it ought to be proved by the most distinct and unquestionable evidence, that the criminal was incapable of judging between right and wrong. *It must, in fact, be proved beyond all doubt, that at the time he committed the atrocious act with which he stood charged, he did not consider that murder was a crime against the laws of God and nature. There was no other proof of insanity which could excuse murder or any other crime.* There were

various species of insanity. Some human creatures were void of all power of reasoning from their birth ; such could not be guilty of any crime. There was another species of madness in which persons were subject to temporary paroxysms, in which they were guilty of acts of extravagance ; this was called lunacy. If these persons were to commit a crime when they were not affected with the malady, they would be, to all intents and purposes, amenable to justice. So long as they could distinguish good from evil, so long would they be answerable for their conduct. There was a third species of insanity in which the patient fancied the existence of injury, and sought an opportunity of gratifying revenge by some hostile act. If such a person were capable in other respects of distinguishing right from wrong, there was no excuse for any act of atrocity he might commit under this description of insanity."

The opinion expressed by Lord Lyndhurst in his charge to the jury at the trial of Oxford, for the murder of Chisnall, was to the same effect, viz. that they " must be satisfied before they could acquit the prisoner on the ground of insanity, that he did not know when he committed the act, what the effect of it, if fatal, would be with reference to the crime of murder. The question was, did he know that he was committing an offence against the laws of God and nature?"

Instead of quoting all the legal authorities and opinions which have been expressed on the same subject up to this date, we shall turn at once to those lately declared at the trials of Oxford and M'Naughten. At these trials the same common sense views of the subject were expressed by the learned judges as was done by their illustrious predecessors in similar cases,—a circumstance which affords the strongest guarantee to the public of the wisdom of the laws by which they are governed, and of the impartiality with which justice is administered.

At the trial of Oxford for high treason, in July 1840, the Attorney-General, in his opening speech, stated, that " it was not sufficient to show former eccentricities ; for if, at the time of committing a crime, a person was cognizant of what he was about to do, he was guilty. In order to exonerate a person from a criminal charge, it was necessary to prove a greater degree of insanity than in civil proceedings. In criminal cases it was necessary to show that the person was insane at the time of committing the crime, and that his insanity had relation to his crime." (The Sun, July 9, 1840.)

The Solicitor-General considered that the question for the jury to decide was, " whether the prisoner was in a situation to know right from wrong,—to know that the consequence of his act would be the infliction of death, and that he would thereby subject himself to punishment?"

Lord Denman, in summing up the evidence, and in his address to the jury, after showing that the not attempting to escape was no proof of insanity, whilst the sound state of the pannel's mind was shown by his asking, " is the Queen hurt,"—continued, " he must say he considered it a most dangerous doctrine to assume the commission

of crime as evidence of insanity, and to make every atrocious and extraordinary wickedness its own excuse. Strictly speaking, there never could be an adequate motive to crime, and it would be most dangerous to assume that every person committing a crime without adequate motive was insane, and, therefore, not accountable for his actions."

It seems scarcely necessary to say, that the jury seem to have returned a verdict of *not guilty*, first, because it could not be proved that the pistols were loaded with bullets, and secondly, because it seems to have been judged better to consider him insane than that it should be presumed that any one could be so wicked and debased as shoot at a monarch so much beloved by all her subjects.

At the late trial of Daniel M'Naughten for the atrocious murder of Mr Drummond, the Solicitor-General, Sir W. Follett, stated, that the jury would have "to decide whether he was in that degree of insanity at the time he committed that crime which would render him not a responsible agent, and not answerable to the laws of his country." "There are few crimes that are committed, and, above all, crimes of an atrocious nature like this, that are not committed by persons labouring under some morbid affection of the mind; and it is difficult for well-regulated minds to understand the motives which lead to such offences in the absence of that morbid affection of the mind. I believe the truth of this remark will be more especially proved when attacks are directed to persons holding high and important stations in the nation." "If you look at a neighbouring country, you will see that persons in broad day, in the crowded streets of the metropolis of France, without any precaution for their own safety, without any attempt to escape, in the midst of the people, close to the armed guards of the King, have discharged their weapons at the person of the sovereign of that country. What motive had they? We know of none, but that of an ill-regulated mind, worked upon by political feeling. I refer to these things to show that the circumstances attendant upon crime itself, afford no grounds for holding that the parties committing it are not responsible to the laws of their country."

"The whole question will turn upon this: If you believe that the prisoner at the bar, at the time he committed the act, was not a responsible agent—if you believe that when he fired the pistol he was incapable of distinguishing right from wrong—if you believe he was under the influence and control of some disease of the mind which prevented him from being conscious that he was committing a crime—if you believe that he did not know that he was violating the laws both of God and of man, then, undoubtedly, he is entitled to your acquittal. But it is my duty, subject to the correction of my Lord, and to the observations of my learned friend, to tell you that nothing short of that excuse can excuse him upon the principle of the English law. To excuse him it will not be sufficient that he laboured at the time under partial insanity; that he had a morbid disposition of mind which could not exist in a sane person; that it is not enough

if he had that degree of intellect to enable him to know and distinguish right from wrong ; if he knew what would be the effect of the crime, and, consequently, committed it, and if with that consciousness he wilfully committed it." (The Times, 6th March 1843.)

Lord-Chief Justice Tindal, after stopping the trial, as he and the other judges considered the medical evidence amply sufficient to prove the insanity of the prisoner, in the few words which he addressed to the jury stated—"The point I shall have to submit to you is, whether, on the whole of the evidence you have heard, you are satisfied, that, at the time the act was committed, for the commission of which the prisoner now stands charged, he had that competent use of his understanding, as that he knew that he was doing, by the very act itself, a wicked and wrong thing? If he was not sensible at the time he committed that act, that it was a violation of the laws of God or of man, undoubtedly he was not responsible for that act, or liable to any punishment whatever flowing from that act." . . . "If, on balancing the evidence in your minds, you think the prisoner capable of distinguishing between right and wrong, then he was a responsible agent, and liable to all the penalties the law imposes. If not so, and, if in your judgment the subject should appear in very great difficulty, then you would probably not take upon yourselves to find the prisoner guilty. If that is your opinion then you will acquit the prisoner."

It will be seen from these quotations that the law of England relative to the responsibility of the insane has, in all ages, been similarly interpreted; and it has been solely from the difficulty of applying the law to particular cases, but, more especially, from judge and jury leaning too much to the vague and unsatisfactory *medical opinions* that many criminals, with a plausible show of humanity, have, of late years, been acquitted on the plea of insanity, who were most undoubtedly responsible agents, and amenable to the laws of their country.

The deeply-lamented murder of Mr Drummond by the hand of a supposed maniac, caused the subject of the "plea of insanity in criminal cases" to be commented on in the House of Lords; and the able speakers on that occasion, not only entirely agreed with Lord Hale, Lord-Chief-Justice Mansfield, and others, as to the interpretation they had put on the law relating to insanity, but stated it as their conviction that that law could not with propriety be altered. The eminence of the Noble Lords who took part in that debate renders all apology unnecessary for quoting so much of their speeches as are applicable to the present subject.

The Lord Chancellor, after stating that the law relative to the plea of insanity in criminal cases was clear, was distinct, was defined, quoted it as laid down by Mr Justice Le Blanc at the trial of Bowler, (see above) and continued: "That, my Lords, is the law of the land so far as it relates to men labouring under some delusion and, while it is upon them, acting under its influence,— if it be so powerful as to render them incapable of distinguishing right from wrong,

or knowing that they were doing wrong in murdering their fellow-creatures,—in such cases they cannot be considered responsible in law for their actions. All the decisions show this to be law." After referring to the opinions of several other judges, (also quoted above,) the Lord Chancellor continued :—"No alteration has taken place in that law, or in the way in which the Judges administered it who presided at the late trials." (The Times, 14th March 1843.)

Lord Brougham "freely concurred in all that had fallen from his Noble and learned friend on the Woolsack, in the most luminous statement with which he had favoured the House." . . . "He had most clearly stated what the law was in respect to a defence founded upon insanity. But still the accountability of persons to the law of the land was but little understood. Some minds, by brooding over injuries which they had actually received, might not be deluded as to the existence of these injuries, but grossly and grievously aggravating the amount of them, might, if it acted upon some malformation of the mind, end in insanity. Such a person might not be the object of punishment to his Maker, but *they* were human legislators; they had no means of judging him; they punished for the mere purpose of deterring others from repeating the same crime for which a party had been guilty. A man with such a mind as he had pictured was, undoubtedly, accountable to the law. Upon that subject he would just inquire what was the test laid down by the learned Judges?" . . . "Generally the Judges said that, in order to make a man responsible, he must be capable of knowing right from wrong; that was the usual way in which it was left to juries. But then, again, some of them said a man must be capable of distinguishing between good and evil,—a most difficult thing for many to do; but there was a variation, and a large one too, which was deeply to be lamented. Then came a third distinction,—a man must know what is proper or wicked. Now there were four distinct tests, four different forms of expression, every one more meagre, every one more difficult to lay hold of than the first. He knew what learned Judges meant by right and wrong, but he was not sure that juries did, and he was certain the public did not. First of all came the question did the unfortunate individual know what he was about? Did he know that he was killing a man, that he was depriving a fellow-creature of his life, or might he not fancy he was destroying some evil spirit, or shooting a bird, or any of the other many delusions which they knew had existed in men's minds? A man in such a case was not a subject for punishment, either at a human or the Divine tribunal. But the difficulty always arose after they had ascertained the fact that he knew what he was about, that he took those precautions which a rational man would do to accomplish a particular purpose; then arose the question—did he labour under such a delusion as that he could not distinguish between what the learned Judges called right and wrong? A man might be possessed of such peculiar notions that he might think it a perfectly right thing to prostrate to the ground a man of whom he had formed a prejudiced or extravagant opinion." . . . In alluding to Bellingham's

case, Lord Brougham showed, that in one sense, Bellingham did *not* know right from wrong, for though he knew he had murdered Percival, and even lamented his death, when asked why he had murdered him replied, "Oh that was perfectly unavoidable; there was no wrong in doing it at all; I could not help it." "Then, (continued Lord Brougham) what was the true distinction which the law drew between right and wrong? Why lawyers told us that that which was according to law was right, and what was contrary to law was wrong. Then why not say so in so many words? This was the test he suggested. If the law was not so, as he said it was, then it had no other meaning—then the law wanted no other change. If the law was not as he said—if he misunderstood the learned Judges—if they meant by right and wrong what every man might think by any idiosyncrasy of his own nature, as he was sure they did not—then he agreed with his Noble and learned friend on the Wool-sack, that they should call the learned Judges before their Lordships, and let them give their answers, not only to the question what they understood by right and wrong, but also to half-a-dozen other questions which would be most easily put and most easily answered. This would, at all events, tend to establish uniformity in laying down the law in future, and banish the words 'wicked,' 'wrong,' 'improper,' 'blameable,' which only tended to perplex; so that there would be one certain principle which not only judges, but the public, and persons partially deranged would be capable of understanding." "When he (Lord Brougham) spoke of a test of knowing right from wrong, he wished to show what had been done in the case of Lord Ferrers. Lord Ferrers was known to have been insane, but as it appeared that he was capable of knowing what he did, and judging of the consequences, he was pronounced guilty and executed, though it was in evidence that they were going to take out a commission and treat him as a lunatic."

Lord Brougham also adverted to the case of M'Naughten, and showed, that all his acts were those of a sane man. His Lordship then concluded by observing:—

"The question, whether a person were legally sane or insane, whether the act was one of guilt or not, must depend on his state of mind immediately before and at the time the act was committed. If he knew what he was doing,—that he was killing a man; if he had contemplated his purpose, and knew at the time he was doing the act, that it was an act which the law had forbidden, that was a test of his insanity, and he was sure that the Judges would give no other test, and he should go down to his grave in the belief that this was the sound, consistent, and true test."

Lord Cottenham generally concurred in opinion.

Lord Campbell thought "the law required no alteration, since by the law as it stood partial insanity gave no immunity;" and after quoting with approbation, Lord Hale's opinion (given above,) continued, "so that it was necessary to consider the state the person was in at the moment, and whether he could distinguish between right and wrong."

We thus see that there is no dubiety in the laws relative to the plea of insanity in criminal cases. The Judges, the only interpreters of the law, have, from the earliest periods, invariably interpreted that law in the same manner. They all agree that the law expressly declares, that partial madness (*i. e.* monomania as it is learnedly styled,) does not excuse from punishment for the crime of murder, provided the person were otherwise able to distinguish right from wrong, provided he knew at the time that he was killing a human being. Where, then, lies the difficulty? Why is it that the law at the present day seems to be so little understood by juries or the public? Why is it that for some years back, we have seen every man who sets up the plea of insanity brought in as "*not guilty*" by the jury, though to common belief the prisoner was sane, and ought to have been considered a responsible agent, and answerable to the laws?

If we examine the evidence given at all the late trials, where the plea of insanity has been urged, we shall find that the prisoners were acquitted solely from the evidence, or, it should rather be said, from the *opinions* of the medical men. Let the deed have been committed in the most deliberate manner,—let all the acts of the prisoner in the commission of the crime have been apparently directed by his own free will,—let him have gone about it in the very same manner as a man in the full possession of his senses would have done, who was desirous of perpetrating that crime—all this is thrown aside—all the *facts* are lost sight of, and because he has at times exhibited certain eccentricities, a strange and moody humour, or capricious and violent temper, circumstances which pass unnoticed in hundreds daily, and because, on these very insufficient grounds, the medical men give it as their *opinion* that the person is insane and incapable of distinguishing right from wrong, the jury give up their own judgment of the case, and acquit the pannel. The constant argument which these medical opinionists use, is, that if mad on one point, though rational on others, the monomaniac's mind is so disturbed, that he does not see things in their true light, and commits the crime under the influence of some strong impulse which he cannot resist. In scarcely a single case, however, do they mention even one tangible fact on which their opinion is founded that the prisoner labours under monomania; they seem to argue the existence of such a state, from the commission of the crime alone.

As, Sir, it has ever appeared to me that all the reasonings of those who wish to prove the monomaniac to be an irresponsible being, as well as the so-called facts on which these reasonings are founded, are based in error, I would especially call your attention to the following facts and arguments, as they appear to exhibit the subject in a very different light from that theoretical one, which it appears to be the wish of the "mad doctors" to impress on the public mind. The facts are collected from the works of the most celebrated writers on insanity, chiefly from those which were published with the view *not* of proving a preconceived theory, but of stating facts. I have purposely abstained from stating several equally strong facts which I

have met with in my own practice, in order that I may with greater freedom, found deductions on the published facts of others.

As every one allows that, when a person is in a state of complete mental alienation, he is perfectly irresponsible, and as every such person ought to be under confinement, that form of madness need not be alluded to. Neither need time be wasted on that form of mental disease termed idiocy, which all the world recognize from birth, nor that failing of the intellects termed dementia, so frequently observed in old age. The two last are scarcely ever, it is believed, the objects of criminal trials, their form of mental alienation in general precluding all idea of injuring others;—in fact, on all occasions they are “more sinned against than sinning.”

It is solely, then, with that form of mental alienation we have to deal which has been termed *monomania*, that is, that form in which the senses are entire, excepting on one point alone, and if this point be not touched on, the individual appears to all a rational, a sane man.

As this inquiry is limited to the commission of murder by a monomaniac, it has to be inquired, Are all monomaniacs necessarily led to acts of destruction? Does the existence of mental alienation on one point so confuse a man's intellect as to deprive him of the power of judging between right and wrong? Are monomaniacs impelled by a power which they cannot resist, so that they do not act as free agents?

The answers to these questions will embrace nearly the whole subject of the responsibility of the insane in criminal cases, and to these, therefore, the attention will be directed.

1. *Are all monomaniacs necessarily led to acts of destruction?*
In endeavouring to arrive at the truth we must be careful to prevent theories, false reasonings, or erroneous deductions from being mixed up with, or mistaken for facts. Many of the late writers on insanity, in its relation to jurisprudence, have started with the view of proving that every derangement of intellect, however slight, however partial, so confuses the existing natural relation of things to the mind of the person so affected, that he does not view them in their natural relations, and is consequently an irresponsible being. Instead, however, of proving their point by a reference to facts, they attempt to do it by metaphysical reasonings from false premises, and the conclusions which they thus deduce, they constantly mistake for facts, and use as such. To such an extent, indeed, have some of these writers carried out such false principles, that if they are able to show that a man had exhibited eccentric conduct, or committed any act for which they could not trace a sufficiently powerful motive, or was actually labouring under any single delusion, however unconnected that delusion might be with the criminal act which he committed, they at once assert that such a man is an irresponsible being, and not amenable for his acts.

This may be the philosophy of writers on Insanity of men of narrow minds, viewing insanity as invariably depending on organic dis-

ease of the brain, and philanthropically concluding that no one ought to be punished for an infliction of Providence. Such, however, is not the mode in which men of common sense must view the acts of the monomaniac; for they must first ascertain *what form of monomania (or partial madness) it is under which the person is labouring*, then, *the connection between it and the crime which he has committed*, and lastly, *whether his form of partial insanity prevented his judging correctly of right and wrong*.

In looking over the evidence, or rather the opinions given by the medical witnesses at the late trials, we cannot fail to perceive that all assert more or less distinctly that there is one form of insanity "of which murder is the climax," which has hence been termed by them, and by writers on the subject, *homicidal monomania*. This they consider a distinct form of distemper, and one so intimately connected with the propensity to destroy, that they class all suicides under the same head, and urge as an additional reason for monomaniacs escaping the punishment due for murder, that the murder is very often committed for the sole and express purpose of getting themselves executed for it, by which they avoid the sin of suicide.

If such statements were founded on facts, homicidal and suicidal monomania would exist as a distinct form of disease. It would be characterized by symptoms (I speak medically) which would enable it to be distinguished from all other forms of partial madness. Now, let me ask, is such the case? Does there exist a distinct form of partial madness characterized by murder or suicide being its climax or natural termination?

All writers on insanity, from the appearance of the work of the illustrious Pinel, have recognized the tendency to self-destruction, and to murder in certain monomaniacs. But if we examine minutely the cases which these writers give in illustration of their positions, we find that, far from the commission of murder or of suicide being preceded by certain forms of partial insanity, persons labouring under all the varieties of partial madness,—religious monomaniacs, love monomaniacs, melancholy monomaniacs, demoniacal monomaniacs, &c. &c., in fact, every form, sometimes end by committing murder or suicide. There is, in fact, no connection between the form of partial madness and the commission of these crimes; and the cases recorded in these very works prove that two cases may be in every symptom alike, excepting in this single one only, that the one attempts murder or suicide, while the other does not, and has no desire to do so.

These statements are fully borne out by the facts narrated by Pinel, Georget, Marc, Morison, Hoffbauer, Haslam, Ray, Esquirol, &c.; and what is still more to the point, the very authors who insist most on the homicidal and suicidal monomania being a separate form of mental disease, are those who, in treating of the separate forms of insanity, *prove by the facts which they state*, (but which they themselves appear to lose sight of,) that the commission of murder and of suicide may follow any form of partial insanity.

What is wished to be proved from these statements is, that persons labouring under no form of insanity, are, in consequence of that form, specially impelled to commit murder. It is an accidental termination (so to speak) to any and every form of partial madness, and depends on other attendant and accidental causes not necessarily connected with the special form of mental alienation under which the person laboured.

The justly celebrated Esquirol (who has no theory to prove from his statements) takes this common sense view of the question, and condemns the idea of making suicidal or homicidal monomania a distinct form of partial madness, stating that these consequences are "only a consecutive phenomenon of a great number of different causes." (Vol. i. p. 528.)

Now if homicidal monomania is not a distinct form of mental disease, nay, if we find that persons, the very opposite of maniacal, viz. idiots, imbeciles, and fatuous, also occasionally commit murder, what are we to infer? but that the late writers and those who hold homicidal monomania to be a distinct form of partial insanity, with a wonderful want of common logical inference, have raised an occasional and accidental symptom to the rank of a distinct variety of disease;—in fact, have acted just as illogically as it would be to raise to the dignity of a distinct place in nosological arrangements, *a white fur on the tongue*, which is known to be a single accidental symptom of a hundred different diseases.

This, then, is the first error which these writers have committed—an error all important, as on it is based one of their principal arguments for the irresponsibility of the monomaniacs. When they arrived at the conclusion that the monomaniac who committed murder or suicide laboured under a distinct form of partial madness which impelled him to commit that crime, they easily arrived also at the conclusion that he was acting on a blind impulse which he could not resist, and of course was not amenable for his acts. But when we see that this, the basement of all their arguments, is false, we must reject their conclusions altogether; and, in order to arrive logically and accurately at the truth, examine every fact *per se*, and endeavour to ascertain to what conclusions they severally lead.

2. *Does the existence of mental alienation on one point so confuse a man's intellects as to deprive him of the power of judging between right and wrong?*—The numerous cases of monomania or partial insanity which have been recorded both in medical works and in the records of the civil courts, have proved beyond the possibility of dispute, that the mind is acute, is sane on every point but that on which the partial insanity or partial delusion is founded. Many individuals labouring under this form of insanity have at our civil courts undergone the strictest examination, and, so long as the delusion under which they laboured was not touched on, were not to be discovered as deviating in any respect from sane men. They talked rationally on all subjects, saw things in their true lights, and have foiled the most acute examiners, aye, the justly celebrated Lord Erskine himself, to prove them insane.

But say they who hold that even partial insanity takes away responsibility for crimes, "though the person undoubtedly talks rationally on all matters foreign to his peculiar delusion, the existence of that delusion is sufficient to obscure and pervert his notions of right and wrong, and cause him to view his own social position through a medium which gives a false colouring to its whole aspect."

Grant for a moment the premises of these writers—would the existence of every form of monomania necessarily lead the person to the commission of murder? for that is the question here, and unless this were the case their arguments fall to the ground. Because a man laboured under the belief that he was the Saviour, would he, in that character, be necessarily led to the commission of murder, and not be aware that it was a crime? Would a woman, crossed in love, and who, in consequence, became deranged on that point, be necessarily led to commit murder, and not recognize it as a crime? Would a person who believed that he had committed some unpardonable sin against God, and, in consequence of this belief, became a monomaniac, be necessarily led to the commission of murder, and not know it was a crime? Do all who labour under these very delusions commit murder? All of these queries may at once be answered in the negative. They would, in the first place, not be necessarily led to the commission of murder, in consequence of the peculiar delusion under which they laboured, as has been shown above; and, in the next place, they would all recognize murder to be a crime against the laws of God and of man, as shall be shown immediately.

Every one will at once admit, that, if a person be labouring under a false delusion or impression, the objects which have reference to that delusion will not be seen in their true lights; but that it does not in general affect them to anything like the extent which late writers would have us to suppose, the records of the civil courts, as well as the numerous interesting cases narrated by various authors on insanity, fully demonstrate. What is meant by this statement is, *that, if the individual wishes*, he can not only foil the most acute examiners to prove himself insane, but can so command himself that even the prevalent delusion of his mind may not be brought out by the strictest cross-examination.

This is an ascertained fact which seems not to have been sufficiently attended to by any writer on insanity, yet it is one which very closely bears on the responsibility of the insane, and their capability of distinguishing right from wrong. The fact, however, is one which is well ascertained; and many cases are related in almost every work on the jurisprudence of insanity, and the records of the civil courts are full of such cases.

But even allowing that this was not proved, there is another and still more satisfactory mode of showing that monomaniacs are capable of distinguishing between right and wrong, and possess in general a sufficient amount of reason to make them aware of the nature of murder, and of suicide, and of their amenability to the laws for the crime of murder.

To prove this point it is necessary to consider somewhat in detail the motives which lead to the commission of murder and of suicide ; and as almost all late writers in their remarks on homicidal monomania have endeavoured to prove that the commission of murder by a monomaniac is generally, if not always, attended by the suicidal propensity, or rather that the suicidal propensity is the one which prompts them to the commission of murder, we shall consider these consequences together.

First then, *are all suicides monomaniacs* ? It has been the custom of late to consider the very act of suicide as the indication of an insane mind ; for who, say they, in the possession of his reason, would raise his hand against himself ?

To ascertain this point correctly, however, we must view it in a more philosophic light, and, laying aside the consideration of the nature of the act itself, consider only the ascertained *motives* which led to the commission of the act.

It must be allowed, generally speaking, that it is an insane act to take vengeance on himself, because he has not strength of mind to combat with the ills of life, with the loss of fortune, of honour, of reputation, of a mistress whom he passionately loved, &c., &c., but we have to consider at present, only whether there was a motive,—and if there was, whether the motive was at all proportioned to the act.

The existence of a *motive* has been regarded by almost all writers on insanity as a criterion for discovering whether the person's mind were in a sound state or no. If a motive, however slight, could be discovered, its existence has been justly held as proof that the person committing the act, whatever it was, did it under the influence of that motive—of course did it voluntarily—did it by an act of the will, and was consequently a responsible agent. The motive is often, no doubt, very trifling, and apparently quite disproportioned to the act ; but we every day see individuals very much disconcerted, and even excited to frenzy by causes so trifling, that another mind can scarcely conceive such a trifling motive could rouse the passions to such a pitch. Yet the individuals thus affected, a few minutes after their passion is over, will themselves laugh at their own folly, and in every respect exhibit all the characters of a sane mind, without one taint of insanity. They may be styled, and really are, irascible individuals, and it is by that very class that both suicide and murder are often committed on the slightest real or fancied provocation or motive.

Now what are the common motives which lead to the commission of suicide ? Esquirol, to whose authority on this point all must bow with reverence. states, that suicide is in most cases provoked by the passions, by anger, jealousy, sudden loss of fortune, loss of honour, disappointed love, chagrin, home sickness, dread of disgrace, misery, weariness of life, &c. ; and Ray, who, of all writers on the jurisprudence of insanity, perhaps carries furthest his ideas of the irresponsibility of all affected with any, even the most partial derangement of

intellect, adopts the same views. All must admit that none of these motives are or ought to be sufficient to drive a well-constituted mind to the commission of suicide, and yet we every day see that they do; and as it is impossible to trace, up to the very moment of committing the act, the slightest trace of insanity, or defect in the intellect of such persons, we are forced to conclude that they acted from *error of judgment*; but we have no right to confound such error with unsoundness of mind. The suicide seems only to consider that it would be more painful to live under such circumstances, than to die; and for want of moral courage to bear up against the ills which threaten him, he rushes into eternity. No one can for a moment doubt that the mental disturbance which leads to the commission of this act must be great; but the very same may be affirmed of all cases where crime is committed under the influence of strong passions, and is no proof of the existence of insanity.

It is not meant to be inferred from this statement that no suicides are committed under the influence of partial insanity, but simply to show that by far the greater proportion may more properly be ranked under *errors of judgment*, and are committed by rational and responsible beings.

It is at once, however, admitted that suicide is *sometimes* committed by persons labouring under partial mental derangement, and it is necessary, therefore, to inquire whether they are so unconscious of what they are about, as to come under the legal plea of insanity—viz. not capable of distinguishing right from wrong.

On this point the most discordant statements are made by different writers on insanity, according to the views they hold of that affection. Those who hold that any form of insanity, however partial, however unconnected with motives which might lead to self-destruction, confuses a man's intellects, so as to deprive him of the power of viewing objects in their true light, assert that such persons do not know what they are about, and in the commission of suicide are not free agents. These writers, however, do not state the *facts* on which their *opinions* are founded, but from certain theoretic reasonings, which, I have no doubt, they *mistake for facts*, arrive at this conclusion.

After a very careful examination of the facts which bear on this point, which are casually stated by a very few writers only, and also from having my attention forcibly directed to this point in consequence of being called to treat a few patients who had presented the suicidal tendency, a very different conclusion was arrived at. Esquirol, who is one of the very few, it might almost be said the only one, who has given a full statement of the facts on this point, as ascertained by himself, also arrives at an opposite conclusion.

"I have questioned (says he) many hypochondriacs and a great number of lypomaniacs, (monomaniacs with melancholy,) who had attempted suicide; *all assured me that they were led to do it voluntarily*, and that they thought on it with pleasure. But all added, that they were in such a state, either moral or physical, that nothing

was more frightful to them than their present state, which seemed to them to be eternal, and that death offered itself to them as the only means of delivering themselves from it ; it was this which rendered death desirable. Those who felt no more pleasure in life fell victims to spleen, lost all sensations and desires, they had exhausted all the sources of life, they felt a frightful void, were in a state of complete isolation in the midst of the world, which threw them into such a state, that they preferred to change it for death, which had nothing frightful to them, the passing pain of dying appearing to them preferable to an eternity of weariness." (Vol. i. p. 599.)

" People talk much (continues Esquirol) of individuals killing themselves without effort, without repugnance, and they take no account of those who kill themselves after painful and unknown torments. I have heard a woman, who had cast herself into the Seine, but was drawn out and brought to Salpetriere, say, that before executing her fatal resolution, she had walked hurriedly for twenty-four hours along the banks of the River, and that during all that time she suffered horribly ;" and several similar cases are instanced.

If I might be allowed to instance my own very limited experience, I would state, that in the very few cases of monomania in which suicide was attempted, which came under my care, I fully satisfied myself that the persons were led to commit the act *voluntarily*. From some cause, either fancied, or, if real, greatly magnified, life had become to them more intolerable than death, and in almost every case, after a fearful mental struggle, they were led to prefer death, as they wanted moral courage to bear up against the fancied ills which surrounded them.

Esquirol's sentiments, therefore, deduced from a lifetime of observation of the insane, perfectly agree with my own, deduced from a very limited experience indeed of this malady, and from a careful investigation of the facts casually stated by various writers.

If such be the case with the suicide,—aye, with the monomaniacal suicide, what is the case with the homicidal monomaniac? Consult the later writers on homicidal monomania and you will find that one of the arguments on which they most rely, as proving the irresponsibility of monomaniacs for the crime of murder, is, that these monomaniacs frequently commit suicide after the murder, or, that they commit murder for the express purpose of suffering the last penalties of the law for that crime, either considering murder a more pardonable sin in the eyes of their Maker than suicide, besides the possibility of repenting of it before execution, or from want of moral courage to commit suicide.

Now let us examine with the aid of common sense, the arguments of these writers, and we shall see that they lead to the very opposite conclusions which they draw. They actually prove the monomaniac to be capable of distinguishing right from wrong—they prove him to be a responsible being, and of course amenable to the laws.

First, then, *the monomaniac*, they say, *commits suicide after the murder*. What does this prove? But that when the gust of pas-

sion or frenzy, or, call it what you will, which induced him to commit the deed, is over, *and he has time to reflect on the consequences of his act*, horror at the crime he has committed, dread of disgrace, of infamy, of a public trial and execution, drives him to commit suicide. In all this he acts the part of a *reasoning being*. By the very act of suicide he acknowledged his own culpability, his responsibility.

It is astonishing that no writer on insanity, so far as known to me, has taken this view of the question, though the writings of all abound with cases which prove the fact. Esquirol, Marc, Ray, &c. narrate cases in which suicide followed the commission of the murder,—in some immediately thereafter,—in others during pursuit to prevent themselves being captured—in others, again, after trial and sentence but before execution. In all these cases it could not be pleaded that the person did not know what he was doing, for he committed the suicide for a distinct end, viz. to escape justice, to escape being taken, to escape the ignominy and infamy of a public trial, and execution for the murder which he had committed. There was therefore a motive present—a motive sufficiently powerful, if any motive can be such, to impel him to the commission of suicide. It was only by the exercise of his reasoning powers that such a resolution from such a motive could be arrived at; he was consequently acting as a rational being, he was acting as a responsible being.

Let us now examine the other case stated to occur—viz. that *monomaniacs commit murder for the purpose of suffering the last penalties of the law, either considering that murder is a more pardonable crime in the eyes of their Maker than suicide, and may be repented of before execution, or because they want the moral courage to deprive themselves of life*. If we consult the recorded cases in which this so-called variety of monomania was exhibited, we shall find that in nine cases out of ten the persons were perfectly rational, and were driven to this step, not in consequence of an irresistible internal impulse or false delusion to commit either murder or suicide, but by an external, an apparent motive—a motive the very same as that which influences every day a sane man to commit suicide.

The most remarkable instance in which this propensity to commit murder was exhibited in an epidemic form—murders committed for the express and ascertained motive of being condemned and executed for them, occurred in the grenadier guard of Frederick the Great at Potsdam. The severity of the military discipline was such that death was considered preferable to life, and as they considered suicide a greater crime than murder, they generally chose an innocent child for their victim, and willingly laid down their lives to the violated laws of their country, to escape the intolerable severity with which they were treated. These men, therefore, acted from an ascertained motive—showed deliberation, forethought, correct reasoning powers in what they did, exhibited a perfect knowledge of right and wrong, a full comprehension of the nature of the crime of murder, and their amenability to the laws for it,—were in fact responsible beings.

By what obliquity of reasoning the modern writers on insanity can

consider these very cases as irresponsible homicidal monomaniacs, I cannot pretend to understand. If such individuals are to be considered irresponsible there is an end to all laws, for every one, who from any motive, committed any crime, would on the same principles be acquitted.

Now the above is exactly the case with all monomaniacs who commit murder for the sake of suffering the punishment of death for it. Impelled by some motive, though this may not always be discoverable to others, by chagrin, disgust of life, loss of fortune, loss of honour, disappointed love, it may be even by some strange delusive fancy, they resolve on escaping their present troubles by depriving themselves of life. But how do they go about effecting this? Not by raising their hand against themselves, not in a fit of sudden frenzy, but with deliberation, with forethought, with a distinct consciousness of the heinous nature of the crime of murder, *with a distinct consciousness that that crime is punishable with death*. This shows that the suicidal monomaniac, who commits murder for the purpose of undergoing the punishment of death, has a distinct knowledge of right and wrong, a distinct consciousness that murder is a crime, and is of course a responsible being, and amenable to the laws.

Now these are the very persons who, after attempting to commit or committing a murder, make no efforts to escape, or deliver themselves up to justice, or allow themselves to be taken. But they are not the only class who do this; for others who commit murder from very different motives—motives of revenge, &c. do also deliver themselves up to justice, or make no efforts to escape, seeming to imagine that, by allowing their own blood to be shed, they make atonement to their Maker for the shedding of the blood of their fellow men, and will thus escape eternal punishments.

It is no argument for allowing such persons to escape under the plea of insanity, that the depriving them of life is the very object they most desire, and that, therefore, the fear of punishment cannot deter them from the commission of murder; and yet this is the very argument on which Ray and the late writers on insanity chiefly rest in endeavouring to prove that the homicidal monomaniac ought never to be punished with death. For what purpose, let me ask, are punishments annexed to the commission of crimes? Is it simply to punish the individual? or is it not also, and even chiefly, for the purpose of deterring others from committing the same crime? If punishments were solely intended to react on the offending individual, were intended to act as an atonement for the crime which he had committed, then punishments would be simply deeds of vengeance, and the arguments of these late writers on insanity would be, so far as this particular class of monomaniacs was concerned, perfectly correct. But we know that this is not the case, but that the chief, though not the sole end of punishment is, to deter others from the commission of the like crime. Their arguments, then, are completely fallacious; in fact, in using such arguments, they show an obliquity of mind nearly as great as what they themselves demonstrate constitutes monomania.

But this is not all. They also allege, that, by punishing a monomaniac for the crime of murder, all force of example is lost, seeing that monomaniacs labouring under the same delusion cannot be expected to be deterred from the commission of the like crime.

If the laws were made for monomaniacs and the insane, such an argument would be true; but, happily for mankind, the law looks on all mankind as rational and responsible beings, and addresses them as such. The law, therefore, punishes a murderer with death to deter others from doing the same, to deter the community at large from the commission of a similar crime. Nay, more, the law supposes that no insane person who is likely to be dangerous to the community is at liberty;—the law gives the power to confine any one dangerous to the community, so that it takes no account of the example which the punishment of any criminal may have upon the insane, but only of its example to the sane.

It thus appears to be proved that the second query which was put may be answered in the negative. It thus appears to be demonstrated, not from hypothetical assumptions and illogical reasonings, but from ascertained facts, that *the existence of mental alienation on one point does NOT so confuse a man's intellects as to deprive him of the power of judging between right and wrong.*

It thus appears that the learned judges, in laying down the criminal law, and stating that the plea of insanity could only be sustained where there is "absolute alienation of reason," where the person "cannot distinguish right from wrong," and that "partial insanity will not excuse him," decided far more correctly, far more according to the common sense view of the question, far more according to the very strictest *medical* investigation into the nature of partial insanity, than even the medical writers who profess a superior knowledge of the malady itself.

3. *Are monomaniacs impelled to commit murder or suicide by a power which they cannot resist, so that they do not act as free agents?* As the question of the culpability of the monomaniac to no small extent rests on the answer which may be given to this query, it is proper to consider shortly whether every man who commits a heinous crime, especially that of murder, is at the moment under the influence of an impulse which he cannot resist.

Every one will at once admit that murder is usually committed under the influence of excited passions. Two men quarrel, and the one stabs the other. A man receives an insult, broods over it for some time, waylays the person who wronged him, and murders him. A man becomes jealous of his wife, and in a fit of jealousy murders her. In all cases, therefore, where, speaking according to the common acceptation of the terms, a sane man commits murder, he is at the moment under the influence of some passion which he cannot or does not control.

M. Georget, in his work "*De la Folie*," enters somewhat deeper into the philosophy of the passions than most others on insanity; and the conclusions at which he arrives are, that "the moderate ex-

ercise of what we call inclinations (penchans) gives rise to different sentiments, the end of which is always the preservation and happiness of the individual or species. Such are the results of love, of self-esteem, of love of our fellows, or of our children, the necessity for the union of the sexes, &c. *The passions are nothing else than the exaltation, I would rather say the delirium of these same inclinations.* And again, "the true passions have their sources in us, often arise spontaneously, are merely the inclinations pushed to an extreme, *almost quite independent of reason.*" (P. 32.)

The truth of these remarks, every one who has mingled with the world must have both seen and experienced. A man in a fit of passion is not himself; he commits acts which he knows are culpable, but does it under the influence of blind passion, his reason for the time being in abeyance. In fact, when he rushes on to commit the culpable act, he thinks only of accomplishing his purpose,—*he never or rarely reflects on the consequences till the deed is done.* It is quite the same with the man who broods over an injury, or supposed injury. He does not allow himself to think of the culpability of the revenge which he meditates, but only on how he may best accomplish his purpose; and although the whole deed may bear, and does bear the impress of cool deliberation, the man has all the while been in a greater or lesser state of morbid excitement, which, however, did not deprive him of his reason, but only kept it in abeyance.

The passions, then, are in every case independent of reason, and it is only those who have learned to bring in reason to repress the first risings of passion, who are able to master their passions, and prevent them hurrying them on to deeds of folly or of guilt.

Now in what class of persons are homicidal monomaniacs, as they are termed, most common? It is chiefly among those who, from youth, have given a loose rein to their passions, and have at last allowed them to gain the mastery over them. These persons are generally of a morose disposition, prefer retirement to company. From not mixing freely with the world, are apt to take up strange whims, they brood over these, and, from not possessing that self-command which mingling freely with the world necessarily produces, this whim or delusive idea gains strength, becomes the moving power, as it were, of the individual, he gives way to it, and working himself into a frenzy, either suddenly revenges himself on some supposed enemy, or compasses the same end with deliberation and coolness. It is always under the influence of some such excited passion that such persons commit murder, and if they do not follow it up with suicide, deliver themselves up to justice, make no efforts to escape, plead insanity in bar of judgment, or even use the most careful devices to conceal the murder, or escape the punishment.

It ought to be especially recollected that the commission of murder by such persons is often the only tangible fact which can be laid hold of to prove their insanity. Had they not committed this crime they would have only been considered as passionate, it may be as eccentric men, and would have passed through life without attracting

special notice. But one of these is for some real or fancied motive led to the commission of murder, and then it is all at once discovered that for some months or years he has displayed such symptoms as enable the "mad doctors" to give it as their opinion he has been for some time "afflicted with that form of monomania of which murder is the climax," in which the impulse to destroy was so strong that he was unable to resist it.

We have just shown that when a man is in a fit of passion he is not acting under the influence of reason, but of a blind, uncontrolled frenzy. But what law, human or Divine, would acquit that man of responsibility for his actions? The laws, both Divine and human, were made that man might control his passions by his reason, and if he fails to do this, he breaks both these laws, and is amenable to them for his conduct.

The monomaniac is not otherwise situated. He labours, we shall allow, under a delusion which represents *one* object in a false light, (and this is exactly paralleled by the sane man when his passions begin to rise); but it is only when this idea predominates to the exclusion of every other, in other words, it is only when, under a frenzied paroxysm on this subject, that, like the sane man in a fit of passion, he loses the proper relation of things, and commits the crime of murder. But he is not less responsible on this account for the crime he has committed than the man who only laboured under the temporary delusion induced by a fit of passion. We have shown above, that in almost every case (most likely in every case, if properly investigated,) the so-called monomaniac could distinguish right from wrong, and was, of course, a responsible being. We have seen that, in the commission of murder he went about it in the very same way, as a sane person would do. We have seen that if it was the suicidal impulse which dictated to him the commission of murder, he reasoned soundly and logically of the *moral* and *legal* responsibility of his actions; he committed the murder with the full knowledge that it was a crime punishable with death, and it was in consequence of this knowledge that he committed the murder. He was, therefore, up to the very moment of committing the crime, in the full knowledge of right and wrong, and was, of course, a responsible being.

It may, therefore, be asked, can a man be said to be irresistibly impelled to commit a crime when he commits it with the full knowledge of its nature, and of the liability to punishment which he incurs by its commission? It must at once be answered, *he cannot be irresistibly impelled*. The monomaniac, therefore, acts as a free agent, as a responsible being, and is a person amenable to the laws of his country.

This is, perhaps, the proper place to notice a very strange and most illogical error into which most late writers on insanity have fallen, especially those who view every eccentric act as that of a madman, and consider that such eccentricity deprives him of moral and legal responsibility. This is nothing else than to endeavour to establish an absurdity—establish a distinct form of insanity, under the title of "*Reasoning Insanity*." Under this head they include every man

who commits a crime, and yet in whom *no alienation of reason can be discovered*. The commission of the crime they seem to regard as proof of his being insane, and the fact staring them in the face that the man is a *rational, a reasoning* being, forces them to create a new, an unheard of, and totally irrational form of insanity—"Reasoning Insanity;"—that is to say, *the possession of reason with the loss of reason*. Some endeavour to get over the absurdity of the title by styling the same supposed form "*Moral Insanity*;" but it is just as bad; for if a man's moral powers, his knowledge of right and wrong, his knowledge that murder is a crime, be sound, he cannot be insane.

The fact of many writers on insanity endeavouring to prove the existence of such a form of mental alienation is simply mentioned, that every one may judge for themselves of the state of mind of the writers who could promulgate such madlike theories; and that no one may be misled by such irrational statements. It does not follow that their assumption must be true because they assert that some persons can reason logically on all subjects, recognize the nature of a crime, and knowledge of its punishment, and yet commit a crime, that on that very account they are to be considered as "reasoning maniacs," and ought not to be held responsible for their acts. If a person commits a crime opposed to all his former course of life, it is no more than what is seen to happen every day with men in a fit of passion, and all such are both morally and legally responsible for their acts, and amenable to the laws of God and of man.

Let the subject of insanity be judged of, not as it is represented by such theoretical writers, but by the ordinary rules of reason and of common sense. Let facts speak for themselves, and from the facts let every one deduce those conclusions to which his reason directs. If things were so as these theorists state them to be, who would be responsible for any crime? We all reason, we are all more or less rational men; and if, from any cause, we should chance to commit a crime, which, from its nature, was opposed to our former conduct, would any properly administered law excuse us, because at the *dictum* of a few theoretical writers or learned physicians, the judge and jury were gravely informed that we laboured under reasoning insanity? What, then, would be the test of a sane mind? Evidently nothing but the keeping free from the commission of crime. What, then, would be the use of our criminal laws? Where the necessity for that oft-repeated strict command of the Author of our Being to shed the blood of the murderer, if the murderer never could be amenable to that law.

There is an additional and very strong argument which, almost of itself, proves the responsibility of the partially insane, or monomaniacs, for the crime of murder, and that is, that those affected with an "absolute alienation of reason" (those relative to whom there never can be a moment's doubt as to their irresponsibility in the eyes of the law) never commit suicide, and rarely murder, or if they do, do it by accident. If we consult the records of crime, if we consult the writers on insanity, we shall find that one particular class of insane, and one

only, are acknowledged to be those who are liable to that form of insanity in which the homicidal and suicidal propensity is observed. This class consists *not* of those who are absolutely insane, but of those who are of sound minds on every point but one, and that one often very difficult of detection. In fact, it is among monomaniacs, or persons partially deranged only, that the homicidal and suicidal propensities are admitted to occur, and not among those totally deprived of reason. This is a fact so well established, and so universally admitted, that it is unnecessary to quote authorities upon it ;—nay, the fact has been brought so frequently of late before the public, that it must be familiar to every one that it is not homicidal mania, but homicidal *monomania* which has been the subject of all the late trials.

Though the fact, then, is known and admitted, no writer, so far as I know, has made any use of it ; and yet it is one of extreme value. What, then, are we to infer from this undoubted fact ?

If insanity were the cause of the homicidal and suicidal propensity being developed, when that insanity amounted to an absolute alienation of reason, these propensities ought to increase with it, and prevail to a fearful extent in those labouring under a total loss of reason. Contrary, however, to this theoretical principle, in those totally insane the suicidal impulse is wholly absent,—is never present ; and even murder itself is only occasionally committed, and then only by accident. The complete loss of reason, then, so far from rendering a man more prone to commit suicide or murder, takes away all propensity to do so.

But this fact allows still further conclusions to be drawn. We know that a man in the complete use of his reason (so at least we are forced to believe) may in a fit of passion commit murder, even on the most trifling cause ; or he may brood over his real or imaginary injury till a fit opportunity offer, and then commit the crime of murder. Now this happens to be exactly the case with the monomaniac. He either commits the murder immediately, on the spur of the moment, or he broods over his imaginary wrongs and waits till a fit opportunity offer to revenge himself. More than this, the sane person, borne down by misfortune, by suffering, by the intolerable severity of his treatment, by loss of honour, &c., in order to escape from his present state, which he finds intolerable, either commits suicide directly, or, if he wants moral courage for this, murders another that he may be found guilty and be executed. The monomaniac, urged by a delusion, it may be, in order also to escape from his present state, which he judges to be worse than death, either kills himself directly, or commits murder that he may be found guilty and be executed. Still further, the sane person, after having killed a person in a fit of passion, urged by a remorse of conscience, by horror of the deed he has committed, by dread of infamy, &c., raises his hand against himself ; and the monomaniac acts in the very same way, and from the very same motives. The cases, then, of the sane person and of the monomaniac, in so far as the crimes of murder or suicide are concerned, are strictly analogous, and strongly contrast with the

case of the person afflicted with a total alienation of reason. The above facts prove that, to commit either of these crimes, as the monomaniacs are known always to commit them, the person must have possessed a sufficient amount of reason to have prevented him from committing the crime, had he brought it into play. They prove that all the acts of the monomaniac in the commission of murder and of suicide are identical with those of the sane man, and are quite at variance with those of the totally deranged. They prove the monomaniac to be a responsible being, and as amenable to the laws of his country as the sane man who commits the same crimes in fits of passion. It is no excuse to the one man that he committed the murder in a fit of passion; it ought to be no excuse to the other that he laboured under a particular delusion, under a partial madness, under a form of insanity which left his reason entire on every point but one, and even that one in certain circumstances under his own control,—which left him with a full knowledge of right and wrong,—a full knowledge of the heinous nature of murder, and his responsibility to the laws for that crime.

Let the above facts and arguments be viewed, not unconnected and singly, but in connection with each other, in all their varied bearings, and let the conclusions arrived at under each argument be carefully compared together, and it will be found that they amount to as near a demonstration as the subject is perhaps capable of,—that *monomaniacs are cognizant of right and wrong,—know that murder is a crime, and that it is punished with death,—are responsible agents, and amenable to the laws of their country for the crime of murder.*

It will be seen that in all this inquiry the facts and reasonings have been limited to that form of insanity termed *partial* insanity, or *monomania*, and the subject of general insanity, or total alienation of reason, has been omitted to be noticed. When the person is labouring under general insanity none of the above arguments apply, because at no time is the person capable of seeing things as they exist, everything appears a delusion to him. His state is at once recognized by all, and never could confuse judge or jury in making up their minds as to his complete irresponsibility. I quite agree, therefore, with Belloc and Fodéré, that, “in the case of manifest madness, there is no need of the reports of physicians to establish it; and that *we are far more sure of ascertaining the fact correctly* by collecting the evidence of some of the neighbours, or of those who have lived daily beside the person.” (Fodéré, Vol. i. p. 192.) It was, therefore, quite unnecessary to take such a state into consideration in this letter, and, the more especially, as all the cases of murder brought for trial before the criminal courts, in which the pannels have put in the plea of insanity, have been cases of murder committed by those who laboured under partial madness only, and never, so far as I know, by those labouring under complete alienation of reason.

I trust, Sir, it has been fully proved, by the facts which have been stated, that the law as it at present stands requires no alteration, and that, as directed to be applied by the learned judges, it meets the most en-

lightened investigations into the nature of insanity. It has been shown that the essential feature of the law relative to insanity is, that the plea cannot be sustained if a person can distinguish right from wrong, knows that he is committing a crime which renders him amenable to the laws of his country. It has been shown, both from a reference to facts, and also from strictly logical arguments, that monomaniacs do reason, and reason correctly in so far as the crime of murder is concerned; and that in every case they know they are committing a crime against the laws of God and of man;—that, nevertheless, they commit the murder either on a sudden impulse, like a man in a fit of passion, or with premeditation and coolness, like a man taking sure means of revenge; and then, stung with remorse for their crime, and dreading public infamy, direct their hand against themselves, or, not possessing sufficient moral courage for this, surrender themselves to justice, use no means to escape, or endeavour to escape the punishment of death by pleading insanity in bar of judgment. In fact, in all their actions act as sane men do, and never as those would do who laboured under a complete alienation of reason, and who consequently knew not what they were doing.

The law, therefore, as interpreted by the learned judges, is thus fully proved to include under the head of *criminals*, (or persons who, being able to distinguish right from wrong, are amenable to the laws of their country,) all homicidal monomaniacs,—all who commit murder when only labouring under partial derangement. The law, therefore, as still further laid down by almost all lawyers, that partial insanity will not excuse from the punishment due for capital crimes, is strictly in accordance with the most severe investigation of the nature of partial insanity or monomania, and ought to be explicitly declared to be the law of the land.

The length to which this letter has already extended prevents me from indulging in any lengthened remarks on one subject which it is necessary shortly to notice, viz. the strange and unaccountable frequency of murders or attempts at murder by supposed monomaniacs, after the occurrence of one such murder.

The principle of imitation is extremely powerful in all weak minds, and may be seen every day in a hundred of the occurrences of life. But it is more especially where the moral passions are interested that we see this principle of imitation carried to its utmost length. What are the revivals witnessed so very lately in many parts of our own land, but this? An affecting sermon, appealing powerfully to the passions, is preached,—one more nervous than the rest screams out in despair, and the greater portion of the listeners are soon equally affected. In the days of witches, not only did very many weak-minded people fancy they held intercourse with the Devil, but almost every one who was accused of witchcraft confessed to the same,—nay, instances were not uncommon of a whole school being similarly affected. But what is still more to the point, suicide is especially remarked to be one of those actions which are frequently imitated; so much so, in fact, that it seems at times to rage like an epidemic

disease. At a meeting of the Royal Academy of Medicine of Paris a few years ago, it was mentioned by M. Costell that a soldier of the Hotel des Invalids, having hanged himself on a particular post, his example was followed in a short time by twelve others of the inmates; but that on the removal of the fatal post, the suicidal epidemic was suddenly arrested. It is also narrated that in the year 1793 no fewer than 1300 persons committed suicide at Versailles. The well-known instance of the Prussian soldiers at Potsdam, one after the other committing murder for the purpose of being executed, and thus escaping the intolerable severity of the military discipline, is another example; and a thousand similar instances might easily be related. But would any one believe that all these, from the simple imitators of a fashion to that of a religious fanatic, of a witch, or of a suicide, were maniacs? and yet where is it possible to draw the line of demarcation? At the religious revivals every form is witnessed from unmoved sanity to raving fanaticism, (*religious monomania*, as its learned name is,) and yet would any one of these monomaniacs, aye, or their relations, allow that they laboured under such a degree of mental alienation as to deprive them of moral responsibility? And yet, according to all the definitions of partial insanity laid down by writers on that disease, every one of these persons would come under the denomination of monomaniacs, and be considered *by them* as irresponsible persons. Common sense, however, regards them with other eyes,—as weak-minded people, carried away by their fears and passions, and acting from a principle of imitation. No one who looks dispassionately on these individuals can consider them otherwise than as rational and responsible beings. Is it credible that out of a congregation of 1000 individuals 600 of them should suddenly lose their reason? That wherever the revivalist preacher went a like proportion of all his hearers should be similarly affected with loss of reason? No one could believe such a thing even possible, unless we could believe with Fodéré, that “reason was too heavy a burden which it was necessary to throw off from time to time to allow a free course to the passions to which reason was opposed;” and again, “the permanent state of reason is a forced state, and temporary and partial fits of folly or madness are incident to human nature, and ought not to be regarded as absolutely proving that a man ought to be ranked in the class of madmen.” (Vol. i. p. 185.) Or with Haslam and others, that “every man is more or less insane.” As we are, however, addressed by the Author of our Being as rational and sane men, we must consider the whole race, who are not visibly suffering under a total alienation of reason, as rational and responsible beings, and that the above-mentioned acts proceed from a simple principle of imitation on excitation of the passions. Besides, it ought to be distinctly remembered that *this principle of imitation is never seen in those labouring under a complete alienation of reason*, but only in the sane, and in monomaniacs, of whom it has been already proved that they ought to be regarded as responsible agents.

Let us now apply these facts and arguments to the imitations of

the crime of murder, and of suicide by the so-called monomaniacs. Many writers on insanity have noticed that after an atrocious murder by a monomaniac has been detailed in the newspapers, it has been followed by others in many respects analogous to it. Thus the Prussian soldiers at Potsdam successively murdered so many children, that the attention of government was at length called to the fact, to devise some means to put a stop to the contagion. The same delusion prevailed epidemically in Denmark during the middle of the last century, when a child also was the victim usually selected. Esquirol stated at a meeting of the Royal Academy of Medicine of Paris, on the 8th of August 1826, that since the murder of a child by Henriette Cornier, which made a great noise at the time, and which happened but a few months before, he had become acquainted with six cases of a parallel nature; and several physicians who were present bore similar testimony. It is still fresh in the recollections of all that our beloved Queen was more than once shot at; and since the murder of the late Mr Drummond more than one monomaniac has started up. Now what does all this prove?

Those who hold that all monomaniacs are irresponsible and irrational beings, assert, that such facts prove that the dread of punishment is not sufficient to prevent that unfortunate class from falling into the commission of crime; and that consequently, they ought never to be punished with death. But the fact is, these writers again confuse two things quite distinct. The punishment of death, at first awarded to the Potsdam soldiers for the murders they committed, secured them their intended end. They wished to die. Life was to them intolerable, on account of the excessive severity of the military discipline, and by killing a child, they accomplished their own destruction, without committing what they considered *the unpardonable sin of suicide*. But, as was above shown, these soldiers were not monomaniacs, but sane men. They committed the murders for a distinct end, and with an ascertained motive; and what fully bears out this view of the case, is, that when the punishment was changed from death to branding and lashing, *not another murder was committed*; the would-be-called homicidal monomania never more appeared among them, because they did not thus secure the end they had in view. Had the murders, however, proceeded from an irresistible impulse to destroy, as the mad doctors gravely assure us was the case, and is the case with all such, change of punishment, which they also aver monomaniacs never regard, would never have prevented that so called irresistible impulse to destroy from being satisfied, they would have gone on murdering as before. But the very circumstance, that changing the punishment did put a stop to it, were all other evidence wanting, would prove to every rational mind that these men were of sane intellects, were acting on plausible and tangible motives, were acting voluntarily, were of course responsible beings, and not monomaniacs.

Well, but the other cases were at least cases of murder by irresponsible beings, these writers affirm. They were not. And to prove this point the well known cases which followed the atrocious

murder of a child by Henriette Cornier may be quoted. The exact number of murders committed by monomaniacs, after the particulars of the trial of Henriette Cornier were published, do not appear to have been accurately ascertained,—probably, however, they were more than a dozen. But *WHEN* did they occur? Not between the commission of the murder and the trial,—not during the trial and before sentence, which was delayed some time in order to hear further evidence of the state of mind of Cornier, *but, after the result of the sentence was known,—after the pannel was acquitted on the plea of insanity.*

This is a most important fact, because it shows that the dread of capital punishment (contrary to the repeated asseverations of all the late theoretical writers,) kept these monomaniacs, or call them what you will, from imitating the murder till they were assured that there was every chance that the plea of insanity would secure them likewise from the punishment due for that crime. Now it is a known fact that the horrid details of this murder were minutely described in the public papers at the time the murder occurred. If, then, the crime had been imitated when the public mind was first horror-struck at the barbarity of the murder, the persons who imitated it might, with some show of reason, have been regarded as insane, as irresponsible beings; but, when we find that this was not the time when the imitative murders were committed, but that it was months afterwards,—that it was not till the result of the trial and sentence were known, *nearly three months after the murder*, that the murders in imitation of it were committed, we are forced to conclude that the murderers *reasoned*; that they persuaded themselves that the plea of insanity would protect them also from the punishment due for their crime; and that in this persuasion, from love of revenge, of notoriety, or any other, it matters not what motive, committed the crime of murder.

The very fact, then, of their imitating the crime of murder only after the result of the trial was known, shows that they were *reasoning* beings; that they knew that murder was a crime; that they knew the murderer was punishable with death; that they knew the plea of insanity protected from the punishment due for murder. All these circumstances prove them to have had a knowledge of right and of wrong; prove them to have been responsible beings, and amenable to the laws; prove them *not* even to have committed the murder with the view of self-destruction, as the late writers would have us believe.

This, Sir, is a view of the question which does not appear to have been taken by any one, but is fully borne out by almost every case of imitative murder by monomaniacs, the details of which have been published. In proof of this, allusion need only be made to the circumstances which occurred so lately in our own land. Our beloved Queen was shot at by a person whom we shall call a monomaniac. He was acquitted on the plea of insanity; and it was *after his acquittal* that another murderous hand was raised against her Majesty. I have no hesitation in saying that, if Oxford had been hanged, there

would have been no more attempts made at the Queen's life. The man was not mad. But he was, perhaps, properly acquitted, because it was not proved that there were bullets in the pistol; and my own conviction is, that he fired the pistol in order to save himself from starvation, by doing an act which would lead to his being confined for life and kept at the public expense.

Still more recently a monomaniac murdered in open day the late Mr Drummond, whom he had undoubtedly mistaken for yourself. His trial was scarcely over, and the result (his acquittal) known, than monomaniacs start up on every side, all apparently desiring to achieve what he had left undone. Had M'Naughten been hanged, (as it may be judged from what is said above, he ought to have been,) it can scarcely be doubted that there would have been no repetitions of such atrocious attempts, but that with the individual, would have perished the insane desire to commit the foulest crime which can disgrace a country.

The case of Bellingham, who murdered Mr Percival, is a striking instance in proof of the truth of the conclusions above arrived at. Because his Majesty's government refused to redress some supposed grievance, Bellingham resolved to revenge himself on some of the head officials, and deliberately shot Mr Percival, one of the Secretaries of State. This case, then, in its details, exactly parallels M'Naughten's murder of Mr Drummond. But, Sir, note the difference. M'Naughten escaped, he was acquitted; and your valuable life has more than once since that time been in jeopardy. Bellingham was executed; and, as far as I have been able to discover, not a single imitative murder, or attempt to murder, any of his Majesty's officials, was at that time witnessed. Let these facts speak for themselves; their simple statement is of far more weight than pages of argument.

Imitation, furthermore, is a principle only called into play among those possessing their reason. Those labouring under a complete loss of reason never imitate either good or bad acts. It is, however, as has been shown above, a powerful principle in all sane, but especially in what are termed weak minds; and if we take the trouble to look around us and observe the actions of men, we shall find that the principle of imitation is one of the most powerful and universal with which we are acquainted. If, then, it is a principle which operates chiefly or solely on the sane mind, and is never seen in operation in those labouring under an absolute alienation of reason; we are forced from this also to conclude, that all those who commit the crime of murder, with this as one of their main incentives, are responsible beings, especially if with it, we find that it is committed under the circumstances above explained.

If, then, we are so much the creatures of imitation, if, by reading and brooding over the details of some horrid atrocity, the mind from loathing at it begins gradually to feel an unnatural pleasure in its contemplation, and the person is at last brought to imitate it,—is it not incumbent on an enlightened government to use its efforts to sup-

press the narrations of such atrocities, or at least, to make the trial, sentence, and execution of individuals who commit such crimes, as secret as possible? Above all, does it not become them to seclude strictly from the public view those who have been acquitted of the punishment due for the crime of murder or of treason, on the plea of insanity, in order that such individuals may be dead to the public eye, and that there be nothing to excite the sympathies or the imitative principle in weak minds.

Before concluding, allow me to offer a few remarks on the medical evidence usually given at public trials where the plea of insanity is the point at issue. Nothing has ever astonished me more than that learned judges, accustomed to sift facts, and to reject from all witnesses *their* opinions on the facts which they are bound on oath to declare, should, in the case of the medical witnesses, be satisfied with *opinions*, and thus allow the medical witness to act the part both of judge and jury. I say, I cannot understand how they allow this,—how they allow themselves to be led by the *opinion* of a man, who, however eminent his standing in his own profession may be, is far from being nearly so capable as the judge, (aye, or even, perhaps, the jurymen themselves,) of forming a sound opinion on the facts which he may have heard from the ordinary witnesses, or from his having seen the prisoner once or twice. Medical men, from the long habit of viewing certain *theories* as *facts*, have, generally speaking, most illogically constructed minds, and I cannot understand why judge and jury allow the opinions of such men to guide them, as if they themselves could not form a more unbiassed and more just opinion from the facts brought out in evidence. The medical witnesses seem in every case to have forgotten that they are there as witnesses to *prove facts*, NOT to give *opinions*; and the questions which ought to be addressed to them ought to be such as will bring out the fact of the prisoner's state of mind, and the facts, if any such there be, which prove him to be labouring under such permanent and delusive general fancies as prevent him from being able to distinguish between right and wrong. Had this been done on the late trials, I have no hesitation in saying we should have had very different verdicts—verdicts, too, which would have been borne out by the present sane state of the prisoners.

It might be useful to inquire what is the fundamental reason that almost all the late writers on insanity regard the presence of any form of insanity as sufficient to exempt a man from responsibility. Whatever the fancied philanthropic feelings which actuate these men, whatever the casuistry which they employ to engage the feelings of the reader on their side, it appears to me that the true basement on which all originally depends is the belief which these men entertain that in all cases of insanity the brain is in a diseased state. They appear, therefore, to argue that the brain must be organically diseased in monomania also, and that the insanity is but one of the symptoms of the organic disease. They consequently infer that a person suffering from diseased brain must be impelled by a power which he can-

not resist, and ought not to be made answerable for manifesting the symptoms of that organic disease in the commission of criminal acts. They further appear to infer that in monomania, even though the person be apparently rational on all points but one, that one depending on organic disease of the brain must affect the whole powers of the mind, and so confuse the intellects as to render him an irresponsible being.

We shall, therefore, very shortly consider whether the brain is really even generally diseased in this malady; or whether disease of the brain, when present, is even necessarily connected with the existence of insanity; and if we shall find that it is not, it will serve as an additional argument to show that all the fine spun theories of the late writers on insanity are based on a foundation of sand.

It has been so generally received that the brain is the seat of the mind, that whenever the intellects seem to be in any way disturbed, it has been usual to refer that disturbance to some change in the organism of the brain. We know the mind or soul only by its effects. We see that the body is regulated by some immaterial agent which pervades every part, but we know neither what that agent is, nor in what particular part of our frame it is seated. The brain is the great centre of the nervous system, and it has consequently been regarded as the more immediate seat of the mind, soul, or will. But even this still wants proof; seeing we find whole classes of animated beings, moving, willing, and enjoying life, yet in whom no brain has yet been discovered; and if any arguments might be drawn from the examination of the brain after death, we have only to refer to the express declaration of some of the most eminent writers on mental diseases, that in those who die after having laboured for forty or fifty years under the most severe attacks of these maladies, "disease of the brain was rarely met with."

Beyond all question, the writer, whose authority on all matters of fact, relative to insanity, stands highest in the present day, is the celebrated Esquirol; and on this point, with the full knowledge of the writings of his old pupil Georget, and previous writers who attempted *by reasoning* to prove that disease of the brain must always exist in insanity, Esquirol says, that "the seat of the disease is far from being always in the brain, but in numerous instances is disease of the abdominal viscera;" and then he mentions the very astounding fact, that diseases of the chest and bowels carry off by far the greater number of maniacs, while disease of the brain cuts off very few. He then, in a table, gives the appearances observed on the dissection of 168 maniacs who died under his care, and sums up his observations by stating that the table "proves that a very great number of those labouring under melancholia died in consequence of *phthisis pulmonalis* (consumption), that the alterations of the abdominal viscera are also of very frequent occurrence, while the organic affections of the brain are rare." (Vol. i. p. 436.)

But, even on this point, it is not necessary to take the observations of one man only, however eminent. Even those who hold that

the brain must be diseased in all cases, are obliged to confess, with Georget, that "in the half at least the brain and its dependencies are absolutely healthy,—not a trace of diseased structure can be detected;" and again, "diseased structures are, in general, *ONLY met with in those old insane persons who were also affected with paralysis, epilepsy, inflammation of the brain, or some such complaint of the brain.*" (P. 485.) That is to say, that diseased structure is only found in the brain of those who laboured under diseases which always depend on structural alterations of the brain, whether the persons were affected with insanity or not. Nay, more, even Georget is obliged, for truth's sake, to confess (for, unlike many modern theorists, he states the facts as they occur, though he reasons erroneously on them,) that "the alterations which are met with in the brain *are posterior to the development of the insanity*, of which they appear to be the consequence."

Pinel, perhaps the next in authority after Esquirol, states that "in general the primary seat of mental disease is in the region of the stomach and intestines, and that it is from this centre that the mental distemper spreads as by a kind of irradiation;" and further, that, although diseased appearances are sometimes met with in the brain, "it is necessary, however, to mention, that in the brains of other monomaniacs, no physical lesions are met with; no alteration of the organic structure of these parts; and what is still more decisive is, the same organic changes are often remarked in very different diseases,—after diseases entirely unconnected with mental alienation." And again, "sometimes also the organic lesions, in place of having their seat in the brain or its envelopes, are found in the viscera of the abdomen, and consist especially of morbid changes in the liver, stomach, and intestines." (P. 454.)

Most writers, indeed all those who do not write for the express purpose of endeavouring to prove that the brain is always diseased in insanity, agree that disease of the brain is far from being commonly met with in the insane; and that even those morbid alterations which are met with are nowise different from those which occur in the brains of those who have died of other diseases in which the intellects are perfectly entire. Indeed, it ought rather to be stated, that organic disease of the brain is only met with in those maniacs who, in addition to the insanity, are affected by diseases of the brain, as epilepsy, palsy, inflammation of brain or its envelopes, &c., diseases not even generally attended with loss of reason, and in all of which organic alterations of the brain would be met with whether the person had been insane or not.

But besides all this, let us cast our eye over the very numerous diseases really depending on organic alterations in the structure of the brain, and inquire if all these are even usually attended with loss of reason, or if they are ever attended with partial loss of reason,—with monomania?

The records of medicine fully prove that the loss of reason attendant on undoubted disease of the brain is of very rare occurrence, and

when it does take place, indicates the approaching fatal termination. In fact, it only occurs when the person is in a desperate state, is bed-ridden, and has little chance of recovery. In 99 cases, however, out of the 100, the disease of the brain manifests itself by external symptoms, and has made rapid strides towards the extinction of life before there arises one symptom indicative of any affection of the mind; but when this does occur, it never consists of that partial loss of reason termed monomania, but *is a general failing of the whole of the intellectual powers*, from the simple loss of memory or wandering of the mind to the complete extinction of reason. The intellect never remains entire on every point but one. *True and undoubted disease of the brain never excites monomania.* This is a fact to which every one must assent; for I know not a single author on the practice of physic who states a single observation in opposition to it. From this very satisfactory fact, then, it may also be concluded, that the monomaniacal symptoms in monomaniacs are not connected with diseased brains, and do not depend on organic alterations of the tissue of that organ.

Those who hold the constant presence of organic disease of the brain in insanity, assert that it is always present, but escapes our means of observation in those cases where it is not *apparently met with*. This is a very agreeable way, no doubt, of getting over a difficulty, of getting over a matter of fact, but it is quite unallowable in a scientific treatise. Fortunately, however, the fact may be ascertained, and not only ascertained but proved, to the satisfaction of every rational mind, by considering, not merely the causes of insanity, but its treatment, and more especially the not uncommon occurrence of cases which have lasted from 10 to 50 years, *being removed in an instant by some strong moral impression, leaving the person perfectly sane*. Such cases are by no means rare, and in the standard works on insanity, may be found recorded in considerable numbers. A few may be shortly narrated to show what is meant.

A man affected with suicidal monomania went to throw himself into the river; on the way he was attacked by robbers, bravely defended himself, drove them off, forgot his purpose, and returned to his house perfectly sane. A young lady who had been for years insane, was recommended riding, as an adjuvant means of cure. One day her horse ran off; the fright cured her, and she returned home perfectly sane. A monomaniac, who fancied himself to be the Saviour, chanced to meet in the wards of the same hospital another who laboured under the same delusion. He was asked whether there were more Saviours than one? and how he could be the Saviour if that man was? After a few moments' reflection, he laughed at the ridiculous idea which had possessed him, and from that moment was sane. Robbers attempted to break into the house in which a monomaniac was confined, the fright had such a powerful affect on her malady, that she was instantly restored to reason. A young woman was refused by her parents the liberty to marry the man of her choice, she became insane, and continued so for many months. As all other means

failed, her lover was allowed visit her, and inform her that he had at last obtained the consent of her parents to their union. She burst into a flood of tears, and reason was from that moment restored. Many cases might also be quoted of the sudden restoration of reason, on the return of an accustomed secretion which had been stopped from the time when the symptoms of insanity first manifested themselves. Thus, a woman who was affected with suicidal monomania, went to hang herself in one of the woods near Paris; on her way, a secretion, which had been suppressed, returned; her senses were instantly restored, and she returned home perfectly sane.

Hundreds of similar cases might be quoted, to show that partial insanity may be cured suddenly by a strong moral impression, or by the re-establishment of some natural secretion, which has been suppressed. In many of the cases which are related, the insanity had continued for ten, twenty, forty, and fifty years; and every one knows, that if organic disease of any kind is once established, *if not removed*, it increases from day to day, and becomes more and more difficult to remove. If insanity, therefore, depended on organic disease of the brain, the morbid process would be going on, and becoming more marked,—more confirmed, in proportion to the duration of the malady. But the results of the above cases prove, that so far was this from being the case with them, that even, in cases where the malady had existed for periods of from ten to fifty years, not only did no disease of the brain exist, but, that the fifty years malady could be removed in an instant by a strong moral impression, and the person be thus suddenly restored to the full enjoyment of all his senses. This circumstance, then, more than any other, bears out and corroborates the correctness of the observation, that disease of the brain in monomaniacs, or even the insane generally, is rare. But it does more, it proves that the mental affection does not depend on organic disease of the brain; but that the alterations of structure which are undoubtedly occasionally met with in the brains of maniacs, are to be attributed to the effects of the other accidental and attendant diseases under which they *also* laboured, and of which they died. These attendant and accidental diseases are apoplexy, epilepsy, paralysis, inflammation of the brain, or of its membranes, tumours, &c., diseases quite unconnected with the development of insanity, if we may judge from the fact of their being so common in those who have never presented the slightest symptoms of insanity, when labouring under them.

But this is not all. It does occasionally happen,—perhaps more frequently than is commonly imagined,—that, if the insane be seized with any organic disease of the brain, which eventually proves fatal, as that disease increases, *the insanity*, far from increasing with it, *abates*, and *the person's reason frequently returns before death* *. If the insanity, therefore, depended on *organic diseases of the brain*, it is only common sense to believe, that, as that disease increased, so would the insane symptoms also. It is so with all the usual symptoms which

* No fewer than three cases are narrated in the reports of the Lunatic Asylum of Edinburgh for last year. This is a very large proportion out of nine deaths.

characterize disease of the brain. The delirium, the convulsions, the torpor, the paralysis, or whatever symptoms it may be which characterized the form of the malady of the brain, increase to the last, and are usually the more immediate cause of death. From the above facts, then, it may be very safely deduced, that insanity does not necessarily depend on organic disease of the brain, otherwise it, like the symptoms which characterize disease of the brain, would be found to increase in severity as the disease of the brain increased, instead of abating, as it most undoubtedly does, in many cases.

But there is still another mode of viewing the same question. From what is stated above it will be seen that acts which have been termed monomaniacal are propagated on the principle of imitation. Now would cutting down a convenient post for a suicide hanging himself thereon remove *organic disease* from the brains of all those inmates of the Hotel des Invalids who would undoubtedly have hung themselves thereon had it stood a few days longer? Would changing the nature of a punishment, from death to that of branding and lashing, remove the supposed organic disease from the brains of all those soldiers at Potsdam who would have gone on murdering children had the punishment not been changed? Would the Wurtemberg proclamation to expose all the bodies of suicides in that State, and give them over to public dissection, have put a stop to organic disease of the brain, as it certainly did put a stop to the almost epidemic prevalence of suicide? Did the allowing Oxford and M'Naughten to escape cause organic disease of the brain to increase or form in all the already turned-up monomaniacs? or did the hanging of Bellingham act like blistering and bleeding in extinguishing or removing organic disease from the brains of all monomaniacs in his day? The very idea is too absurd to be treated seriously. Besides this, all writers on insanity allow and relate that strong moral impressions will occasionally remove the insanity instantaneously. Did any one ever hear of a strong moral impression removing inflammation from the brain, or a tumour from the brain, or an effusion of water or of blood from the brain? Did they ever hear of a strong moral impression curing an apoplectic or a paralytic? Did a moral impression ever remove, or could it by possibility remove, any organic alteration of structure in any organ whatever? Unless it could be shown that a moral impression could do all this, we are forced to conclude that insanity, but particularly monomania (which is proved to be not uncommonly so removed) does not depend on organic disease of the brain.

Let no one, then, be deceived by the groundless assertions of theoretical writers, that insanity depends on organic disease of the brain. The above statements prove the reverse; and no theoretic reasonings ought ever to be allowed to be put in the balance against FACTS. It is not the object of this letter to inquire how far the brain may be functionally deranged. That is an entirely different question, which, after all, would simply resolve itself into this that, whenever a man allowed his passions to get the better of his reason, the *functions* of

his brain, it might be said, *were deranged*, and, according to the theoretical reasonings of the late writers on insanity, he was no longer a responsible being, and could not be punished for any crime committed under the impulse of his unbridled passions. Once admit their theoretical, delusive, and irrational arguments, and it is impossible to point out the line of demarcation between a responsible and an irresponsible being. Every one must admit that any crime, but especially the crime of murder, would never be committed by a man in the full possession of his senses;—yet the fact stares us in the face that that crime is very often—too often committed. And to allow every one of these murderers to escape the penalties due for this atrocious crime would be followed by the most ruinous consequences to all civil governments.

In fact, admit these reasonings, and there was no need for that Divine command, “whoso sheddeth man’s blood by man shall his blood be shed;”—there was no need for the additional strong adjunct to this command, “ye shall take no satisfaction for the life of a murderer which is guilty of death, but he shall surely be put to death;” “for blood it defileth the land, and the land cannot be cleansed of the blood that is shed therein but by the blood of him that shed it.”

Would the Author of our being, who breathed into our nostrils the breath of life, have so positively commanded the death of every murderer (accidental homicide alone excepted,) if every murderer was not responsible for his actions? Would He who searcheth the hearts of the children of men,—who knows our inmost thoughts,—when He gave that code of laws to His favoured people, not have excepted the monomaniac, or partially insane, from the punishment due for murder, if they were irresponsible beings? It is quite impossible to deny that they would have been excepted, if, in His all-seeing eyes, they had been irresponsible for their acts. But seeing they are not considered as such,—seeing that in the distinct exceptions, which are so often repeated, there is no allusion made to any such case,—even from this argument we are forced to conclude that the so-called monomaniac is a responsible being, is responsible to men, at least, for the crimes which he commits, and by the command of God, and by the laws of men must suffer death for the crime of murder.

In conclusion, Sir, allow me to hope that the above will receive that calm and deliberate consideration which the gravity of the subject demands. Let not the above views be judged by the eyes of prejudice or of theory, but by the dictates of reason and of common sense. And should the views which have been adopted tend to put the plea of insanity in criminal cases on a surer and more tangible basis than it has yet been, it will fully reward the labours of,

SIR,

Your humble and obedient Servant,

21, RUTLAND STREET,
11th July 1843.

JAMES STARK.



